IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23596 of 2004

Between:

Gudipati Yesobu S/o Yacob
R/o Nallaguntla Village, Komarole Mandal, Prakasam District

..... PETITIONER

AND

1 The Revenue Divisional Officer, Markapuram, Prakasam District
2 The Joint Collector, Ongole, Prakasam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more in the nature of Writ of Mandamus declaring action of the 1st respondent in issuing the impugned proceedings vide Rc. H.No. 2126/2004, dt 8-11-2004 suspending the petitioner as Fair Price Shop Dealer for a period of 2 months is arbitrary, illegal and violation of principles of natural justice in the interest of justice.

Counsel for the Petitioner:MR.P.NAGENDRA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner is the dealer of a fair price shop of Nallaguntla village, Kamarole Mandal, Prakasam District. The first respondent suspended the authorization of the petitioner through orders dated 08.11.2004. Aggrieved thereby, the petitioner preferred an appeal before the second respondent, together with an application for grant of stay. The second respondent is said to have rejected the application for grant of stay. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

From a perusal of the order, dated 08.11.2004, passed by the first respondent, it is evident that the authorization of the petitioner was suspended for a period of two months. Though it is said to be pending enquiry, the very fact that the period for which the suspension is ordered discloses that it is resorted to as a measure of substantive penalty. It can be done only after issuance of a notice and considering the explanation. In this case, the show cause notice was issued to the petitioner, but the first respondent did not wait till the explanation is submitted. Hence, the impugned order is, *prima facie*, in contravention of

clause 5(4) of A.P. Public Distribution System Control Order, 2001. Any further discussion on this aspect is likely to have its impact on the appeal as well as the original proceedings before the first respondent.

Hence, the writ petition is disposed of directing that the suspension ordered against the petitioner shall stand stayed till the second respondent disposes of the appeal. There shall be no order as to costs.

20.12.2004

Note:

Issue CC in three days.

(BO)

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To

1 The Revenue Divisional Officer, Markapuram, Prakasam District
2 The Joint Collector, Ongole, Prakasam District

3 Two CCs. to the G.P. for Civil Supplies, High Court of A.P.,

Hyderabad (OUT)

4 Two CD copies.